IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6424 of 2007()

CMP.3511/2007 of J.M.F.C.-II, ERNAKULAM
CRIME NO.1069/07 OF CENTRAL POLICE STATION, ERNAKULAM.

.....

PETITIONERS : APPLICANTS

---

1. REENA @ DENIMOL, AGED 33 YEARS,
FIFTH ACCUSED(IN CUSTODY) W/O SHIBU,
ARAKKAPARAMBIL HOUSE, EDAVANAKKAD,
ERNAKULAM DISTRICT.

2. SHIBU, AGED 36 YEARS,
SIXTH ACCUSED(IN CUSTODY) S/O VISWAMBARAN,
ARAKKAPARAMBIL HOUSE, EDAVANAKKAD,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.P.HARRIS

RESPONDENTS: COMPLAINANTS

STATE OF KERALA, REPRESENTED BY THE
CIRCLE INSPECTOR OF POLICE, CENTRAL STATION,
ERNAKULAM, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY D.G.P. SRI.P.G. THAMPI.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 6424 of 2007

Dated this the 23rd day of October, 2007

ORDER

Application for regular bail. The petitioners are accused 5 and 6. Altogether, there are 7 accused persons. The crime relates to the murder of a senior Advocate of Ernakulam. His Clerk is the 1st accused. Accused 2 to 4 are the hired assassins who had entered into a conspiracy along with the 1st accused to do away with the deceased. It is alleged that the 1st accused had indulged in several acts of forgery, misappropriation etc., and he apprehended that the misdeeds of his will be revealed. To ensure that it is not revealed to others, he had allegedly entered into the criminal conspiracy with accused 2 to 4 to do away with the deceased.

2. The 1st accused was formerly an Advocate's Clerk of another Advocate. The 5th accused – a woman, is presently working as Advocate's Clerk in that office. The 6th accused – the 2nd petitioner herein, is the husband of the 5th accused. The 1st accused had contact and influence with the 1st accused,

they both having worked together in the same office.

3. It is the case of the prosecution that the 1st accused thieved a cheque leaf of the deceased Advocate. He allegedly handed it over to the 5th accused to fill up the entires relating to the date, name of payee and the amount in figures and words. It is the case of the Investigator that the signature in the cheque was forged by the 1st accused himself. The 6th accused – the husband of the 5th accused, allegedly wrote the name of the deceased below the signature. The cheque for Rs.5 lakhs was presented before the bank and was encashed on 11/3/07 by the 6th accused. The murder of the deceased took place on 12/3/07. The 7th accused is yet another person who had helped the 1st accused to withdraw the amount using the forged cheque. The petitioners were arrested on 16/8/07. They continue in custody from that date, their application for regular bail having been dismissed by the learned Sessions Judge as per the order dated 3/10/07.

4. The learned counsel for the petitioners submits that the petitioners, at worst, can be alleged to be guilty only of the offence of forgery and use of the forged cheque as genuine to withdraw the amount from the account of the deceased. There is no semblance of an allegation or material to connect the

petitioners in any way to the criminal conspiracy to do away with the deceased or in the actual execution of the design of the conspirators. The petitioners have remained in custody from 16/8/07. They may now be enlarged on bail subject to any appropriate conditions. The learned Sessions Judge on 3/10/07 had dismissed the bail application assuming that there may be nexus between the petitioners and the conspiracy for murder. There is no such an allegation raised even now. In these circumstances, continued detention of the petitioners would be a traversity of justice notwithstanding the fact that they are alleged to be guilty of fraudulently using a forged document as genuine to siphon out funds from the account of the deceased.

5. The learned Director General of Prosecutions opposes the application. The learned D.G.P. fairly and categorically concedes that the Investigator now does not have an allegation that accused 5 and 6 were in any way part of the conspiracy to commit the murder of the deceased or had any role in the execution of the design of the conspirators to do away with the deceased. Thus, the allegations against the petitioners are limited to the forging of the cheque and using the same as genuine. The learned D.G.P. finally makes only one request. He

prays that some further time may be given to the Investigator to complete the investigation before the petitioners are enlarged on bail.

6. Having considered all the relevant inputs, I am satisfied that the petitioners can be granted regular bail subject, of course, to the request of the learned D.G.P. for a short further period of time to complete the investigation. The allegations against the petitioners do appear to be serious; but I take note of the fact that the allegations are limited only to forgery of the cheque and siphoning out of the funds from the account of the deceased using such forged cheque.

7. **In the result:**

(a) This application is allowed. The petitioners shall be released on bail on the following terms and conditions:

(i) The petitioners shall not be released from custody on the strength of this order prior to 1/11/07. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

(ii) The petitioners shall execute bonds for Rs.1,00,000/- (Rupees one lakh only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(iii) The petitioners shall make themselves available for interrogation before the Investigating Officer on all Mondays between 10 a.m. and 12 noon for a period of three months from the date of their release and thereafter as and when directed by the Investigating Officer in writing to do so.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge